

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE CENTRAL DISTRICT OF UTAH

3 OL PRIVATE COUNSEL, LLC, a)
4 Utah limited liability) Videotaped
company,) Deposition of:
5)
Plaintiff,) PATRICIA KUENDIG
6)
vs.)
7) Case No.
8 EPHRAIM OLSON, an) 2:21-cv-00455-DDB-DAO
individual,)
9) Judge David Barlow
Defendants.)
10) Magistrate Judge
Daphne A. Oberg
11
12
13
14 November 29, 2023
15
16 9:13 a.m. - 5:22 p.m.
17
18 FOLEY & LARDNER
19 95 South State Street, Suite 2500
20 Salt Lake City, Utah 84111
21
22
23
24 Reporter: Tamra J. Berry, CSR, RPR
25 Videographer: Alyse Largin

<p>1 MS. PORTER: I'm going to object. I think 11:50:16 2 that calls for mental impressions of counsel and 11:50:18 3 protected. I'm going to instruct her not to answer. 11:50:21 4 Q. (BY MR. MORTENSEN) Well, let me ask it -- 11:50:24 5 let me try a different way then. Is there any reason 11:50:27 6 why you didn't identify -- well, let me ask it this 11:50:29 7 way: Were these the only entities that you were 11:50:32 8 aware of when you signed -- when you filed the 11:50:35 9 counter petition? 11:50:37</p> <p>10 A. The only entities I was aware of? 11:50:38 11 Q. The only trusts or other entities that 11:50:42 12 were related to the Olson family in any way? 11:50:44 13 A. No. 11:50:51 14 Q. You were aware of other ones? 11:50:52 15 A. Yeah, there's others listed in here, but 11:50:53 16 they're not parties. 11:50:56 17 Q. And is there a reason why those other ones 11:50:57 18 aren't parties? 11:51:04</p> <p>19 MS. PORTER: I'm going to object. Calls 11:51:05 20 for the mental impressions of counsel and instruct 11:51:06 21 her not to answer. 11:51:09</p> <p>22 Q. (BY MR. MORTENSEN) Do you recall what, if 11:51:13 23 anything, you were told about these trusts that 11:51:20 24 you've identified as third party -- as the third 11:51:22 25 party defendants? 11:51:25</p>	<p>1 and over again I've got to do my due diligence. I 11:52:28 2 was trying to get information. And so, you know, I'd 11:52:32 3 ask him questions, he'd get back to me with 11:52:33 4 information. But specifics, I don't remember. 11:52:36 5 Q. Do you recall any of the specific 11:52:40 6 information that Mr. Hanks provided you during those 11:52:43 7 settlement discussions? 11:52:46 8 A. Specifics, I don't remember off the top of 11:52:47 9 my head, no. 11:52:51 10 Q. Were you told what the purpose of any of 11:52:57 11 these -- the trusts that are identified as third 11:52:59 12 party defendants, were you told what the purpose of 11:53:03 13 any of those trusts was? 11:53:05 14 A. By whom? 11:53:06 15 Q. Anyone other -- well, let's start with a 11:53:07 16 yes-no, on the -- on the anyone, and then we'll carve 11:53:08 17 out any client's communications. So did anyone tell 11:53:11 18 you what the purpose of the trust was? 11:53:15 19 MS. PORTER: I'm sorry, I'm going to 11:53:17 20 object. When you combine that question with the next 11:53:21 21 question, it does circumvent the privilege. Can you 11:53:21 22 exclude Carolyn so that there's not an inherent 11:53:28 23 disclosure in the following question. 11:53:30 24 MR. MORTENSEN: I mean, I just disagree 11:53:32 25 with your premise that -- that whether she had a 11:53:33 Page 108</p>
<p>1 MS. PORTER: I'm going to object only to 11:51:26 2 the extent that the question includes -- 11:51:27 3 MR. MORTENSEN: I'm not looking -- I'm not 11:51:31 4 looking for any discussion with Ms. Carolyn Olson. 11:51:32 5 So let's set that aside. 11:51:34 6 Q. (BY MR. MORTENSEN) Other than what you 11:51:36 7 may have been told by Carolyn Olson, were you told 11:51:37 8 anything else about these entities that you've 11:51:40 9 identified as third party defendants? 11:51:42 10 A. Told anything like verbally from another 11:51:44 11 individual? 11:51:47 12 Q. Yes. 11:51:48 13 A. I mean, in terms of the word "anything," 11:51:50 14 that's pretty broad. Before I filed this I had 11:51:53 15 conversations with Jim Hanks, for example. So I 11:51:56 16 guess my answer is yes, I did have information from 11:51:59 17 others. 11:52:02 18 Q. And you say you had conversation with Jim 11:52:03 19 Hanks before you filed this. What do you recall 11:52:07 20 discussing with Jim Hanks prior to filing the counter 11:52:11 21 petition? 11:52:14 22 A. I mean, we had many discussions. So I 11:52:15 23 can't -- I don't remember exactly. But, I mean, it 11:52:18 24 was all geared towards settlement and, you know, me 11:52:20 25 trying to figure out -- I remember telling him over 11:52:24</p>	<p>1 discussion with someone is about -- whether someone 11:53:36 2 told her about the purpose of the trust is 11:53:39 3 privileged. 11:53:41 4 MS. PORTER: Well, I mean, let me -- can I 11:53:42 5 just give you a hypothetical. Suppose I said to you: 11:53:43 6 Did anyone tell you who murdered, you know, Jim 11:53:45 7 Smith? Yes. Okay. Who told you? It's privileged. 11:53:48 8 I mean, you've just disclosed who told you -- do you 11:53:51 9 see what I mean? It's a tie-in of the two 11:53:54 10 questions -- 11:53:56 11 MR. MORTENSEN: I understand your point. 11:53:57 12 But I'm not -- I didn't ask what the purpose of the 11:53:58 13 trust was. My question was far broader. What -- did 11:54:01 14 anyone tell you what the purpose was? 11:54:03 15 MS. PORTER: The thing is, though, the 11:54:05 16 purpose is a little narrower. If it was about the 11:54:06 17 trust, I'm not sure that I would be making this 11:54:09 18 objection just if it was about the trust. But the 11:54:11 19 purpose seems to narrow the question. 11:54:12 20 Q. (BY MR. MORTENSEN) All right. In an 11:54:14 21 attempt to try to resolve this concern, I'm going to 11:54:15 22 carve out Carolyn Olson for now. I am reserving the 11:54:18 23 right to readdress this issue when we're going to be 11:54:21 24 talking about this later. 11:54:24 25 But for purposes of now, exclude 11:54:25 Page 109</p>

1 conversations, did anyone tell you about the purpose 11:54:30 2 of the trust other than Carolyn Olson? 11:54:32 3 A. Not that I recall. 11:54:34 4 Q. Did you have any discussions with anyone 11:54:35 5 other than Carolyn Olson about what the assets of the 11:54:39 6 trusts were? 11:54:42 7 A. When? 11:54:43 8 Q. At any point ever. 11:54:44 9 A. Yes. 11:54:46 10 Q. And when? 11:54:49 11 A. I mean, what comes to my mind is I 11:54:51 12 remember asking Jim Hanks a lot of questions. I was 11:54:54 13 trying to do my due diligence. 11:54:56 14 Q. Okay. 11:55:00 15 A. But, I mean, I can't give you specifics of 11:55:00 16 which ones I asked about or what I asked or -- but, I 11:55:03 17 mean, I remember having questions. 11:55:07 18 Q. Okay. Anyone other than Jim Hanks? 11:55:13 19 A. Yeah, I believe that there may have 11:55:16 20 been -- may have -- I'm trying to remember. I know 11:55:31 21 at some point I learned about the specific like 11:55:50 22 parcels of land. And I know -- but I can't remember 11:55:55 23 how I got that information. And I'm talking about 11:56:02 24 the Waterton Trust. But I'm guessing. I just don't 11:56:07 25 remember specifics. 11:56:15	1 Q. When you say you don't recall whether 11:57:40 2 you've learned anything, setting aside whether you 11:57:47 3 learned it from him -- 11:57:50 4 A. Uh-huh. 11:57:50 5 Q. -- have you had discussions with him about 11:57:50 6 the assets? 11:57:53 7 A. I just don't remember is what I was trying 11:57:53 8 to say. 11:57:55 9 Q. At this point when you filed the counter 11:57:56 10 petition, did you have a copy of any of the trust 11:58:02 11 documents for any of the trusts identified as third 11:58:06 12 party defendants? 11:58:11 13 A. I don't remember. 11:58:12 14 Q. At this point when you filed the counter 11:58:14 15 petition, did you have any of the formation documents 11:58:20 16 for any of the entities identified as third party 11:58:26 17 defendants? 11:58:30 18 A. Formation documents, like the actual trust 11:58:31 19 document, is that what you're saying? 11:58:39 20 Q. The trust document or the articles of 11:58:40 21 incorporation or -- for the LLCs, the membership 11:58:43 22 agreements. 11:58:47 23 A. So I can say that if it's a Utah entity, I 11:58:47 24 would have pulled whatever was on the State of Utah 11:58:52 25 Department of Corporations before I filed this. I 11:58:56 Page 110
1 Q. Okay. Do you have a general memory as to 11:56:17 2 how, other than your conversation with Mr. Hanks, you 11:56:21 3 may have learned about any of the assets of any of 11:56:24 4 the entities identified as third party defendants in 11:56:27 5 the counter petition? 11:56:30 6 A. I mean, I know I've learned information, 11:56:31 7 but I can't tell you how or when off the top of my 11:56:46 8 head. 11:56:51 9 Q. When you say you know you've learned 11:56:52 10 information? 11:56:55 11 A. Well, like, for instance, there's been 11:56:56 12 discovery in the divorce case. And there's been -- I 11:56:57 13 mean, there's -- yeah, I just can't -- I can't 11:57:02 14 pinpoint what I learned or when I've learned it or 11:57:07 15 how I've learned it just sitting here. 11:57:11 16 Q. Did you have discussions with Ephraim 11:57:18 17 Olson about the assets of the various entities 11:57:22 18 identified as counter -- the third party defendants 11:57:24 19 in the counter petition? 11:57:26 20 A. I don't recall specifically, no. 11:57:27 21 Q. You don't recall whether you had 11:57:29 22 conversations with Ephraim Olson about the assets of 11:57:33 23 those entities? 11:57:36 24 A. I don't recall, no. I don't recall if I 11:57:37 25 learned anything. 11:57:39	1 don't have a specific recollection of that, but 11:59:00 2 that's my practice. 11:59:02 3 As for the trusts, I don't remember 11:59:05 4 specifically. I believe I did, but I don't -- that's 11:59:08 5 a guess. 11:59:15 6 Q. So I want to make sure. You believe you 11:59:23 7 had copies of the trusts, but you don't recall for 11:59:26 8 sure? 11:59:28 9 A. Right. 11:59:29 10 MR. MORTENSEN: Okay. I'm about ready to 11:59:32 11 launch into a new area, so I think it's best to take 11:59:33 12 a break. Let's take our lunch break now. Let's go 11:59:36 13 off the record. 11:59:39 14 VIDEOPHOTOGRAPHER: Off the record at 11:59. 11:59:39 15 (Break taken from 11:59 to 12:39.) 11:59:41 16 (EXHIBIT NUMBER 8 WAS MARKED.) 12:40:13 17 VIDEOPHOTOGRAPHER: This is the beginning of 12:40:21 18 media 3. We're back on the record. The time is 12:40:23 19 12:39. 12:40:26 20 Q. (BY MR. MORTENSEN) Ms. Kuendig, I'm going 12:40:27 21 to show you what is being marked as Exhibit 8. It is 12:40:29 22 a document that you produced in response to the 12:40:32 23 subpoena that was served on Dodd & Kuendig. And you 12:40:36 24 can see it's an assessment after normal reassessment 12:40:44 25 period recommendation report. Do you see that 12:40:48 Page 111

1 document?	12:40:51	1 A. Let me make sure I'm clear. The only	12:43:30
2 A. I see it.	12:40:51	2 person that has given me information about the	12:43:33
3 Q. And I will represent to you this is one of	12:40:51	3 origin, yes, is my client.	12:43:37
4 the documents that you produced to us in response to	12:40:54	4 Q. Okay. Have you discussed the boxes of	12:43:39
5 the subpoena. Have you seen this document before?	12:40:57	5 documents with anyone other than Carolyn Olson?	12:43:41
6 A. Yes.	12:40:59	6 A. Yes.	12:43:45
7 Q. When did you first see it?	12:41:01	7 Q. Who?	12:43:45
8 A. I don't remember exactly.	12:41:02	8 A. Gosh, lots of people. Mark Hindley,	12:43:46
9 Q. Do you have a year or a month or anything?	12:41:08	9 Monica Call, Sarah Vaughn. And I can't remember	12:43:52
10 A. I don't. I know I produced it in	12:41:11	10 Chase's last name, but Chase -- he represents Ruth	12:43:59
11 discovery in the divorce case, so it would have been	12:41:15	11 Doxey Trust. I'm blanking on his last name. I	12:44:05
12 before then.	12:41:18	12 cannot think of it, so we're just going to say Chase.	12:44:17
13 Q. How did you get the document?	12:41:19	13 Other counsel.	12:44:23
14 A. This was in a box of documents delivered	12:41:32	14 Q. And what did -- what did you discuss about	12:44:27
15 to my office, or boxes, sorry.	12:41:45	15 the box of documents with Sarah Vaughn?	12:44:33
16 Q. When were the boxes of documents delivered	12:41:53	16 A. So we -- at Mark Hindley's request, we put	12:44:40
17 to you?	12:42:00	17 the documents at Salt Lake Legal, and then there's	12:44:50
18 A. I don't remember.	12:42:00	18 multiple e-mails with all of us because we agreed	12:44:56
19 Q. I take it before you produced it, any of	12:42:01	19 that all of us would be involved, and like we talked	12:45:00
20 it?	12:42:04	20 about like do we get them inventoried, how do we get	12:45:04
21 A. Absolutely.	12:42:04	21 them inventoried, what do we need more information	12:45:08
22 Q. So before you did the discovery in the	12:42:05	22 on, who do they belong to? And there's been a lot of	12:45:11
23 divorce case you got those boxes of documents?	12:42:09	23 group communications and we went there in person. I	12:45:15
24 A. Yes.	12:42:11	24 think Sarah was there, I think so. I mean, I can't	12:45:21
25 Q. And who delivered the box of -- the boxes	12:42:12	25 remember exactly. But this was a -- that box has	12:45:24
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1 of documents to you?	12:42:16	1 been a source of discussion and sort of group	12:45:27
2 A. My client.	12:42:17	2 consciousness.	12:45:31
3 Q. Carolyn Olson?	12:42:18	3 Q. And in any of those discussions was there	12:45:34
4 A. Yes.	12:42:20	4 any discussion about the source of those boxes of	12:45:36
5 Q. And did she deliver them personally?	12:42:21	5 documents?	12:45:39
6 A. Yes.	12:42:26	6 A. Not that I recall, more -- it was more	12:45:39
7 Q. What is your understanding of what the	12:42:27	7 about ownership.	12:45:46
8 documents in the boxes of documents was? Excuse me,	12:42:40	8 Q. And do you have a copy of the documents	12:45:47
9 let me try that again.	12:42:44	9 that are in the boxes of documents?	12:45:52
10 The boxes of documents, what's your	12:42:45	10 A. No. The only thing that I've retained was	12:45:55
11 understanding of where they came from?	12:42:48	11 what was produced in discovery in the divorce case.	12:45:59
12 MS. PORTER: I'm going to object only to	12:42:51	12 Mark Hindley asked me not to keep anything with that	12:46:03
13 the extent that any understanding might have derived	12:42:53	13 exception.	12:46:13
14 from communications with her client. You can answer	12:42:56	14 Q. Did you review the documents in the boxes	12:46:14
15 it excluding any communications with your client.	12:43:04	15 of documents before they were delivered to Salt Lake	12:46:34
16 THE WITNESS: Then I can't answer it.	12:43:07	16 Legal?	12:46:39
17 Q. (BY MR. MORTENSEN) Is it -- is it your	12:43:10	17 A. Not all but some.	12:46:39
18 testimony that the only person you've discussed those	12:43:11	18 Q. How did you pick what to review and what	12:46:41
19 boxes of documents with is Carolyn Olson?	12:43:14	19 not to review?	12:46:48
20 A. You asked me about the origin of the	12:43:17	20 A. I don't know that I can answer that.	12:46:49
21 documents, and the answer is yes.	12:43:19	21 MS. PORTER: I was just thinking that. I	12:46:55
22 Q. Okay. So with respect to the origin of	12:43:22	22 do think that is intruding into mental impressions.	12:46:57
23 the documents, the only person you've discussed the	12:43:24	23 Q. (BY MR. MORTENSEN) What portion of the	12:47:03
24 boxes of documents with is Carolyn; is that what	12:43:27	24 documents did you review?	12:47:04
25 you're saying?	12:43:29	25 A. I --	12:47:05
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1	MS. PORTER: That's going to be work	12:47:09	1	make sure I --	12:50:00
2	product.	12:47:10	2	Q. Please, take whatever time you need.	12:50:02
3	MR. MORTENSEN: No way that's true.	12:47:12	3	A. So I think this is the document that I	12:50:25
4	Q. (BY MR. MORTENSEN) Okay. Is there any	12:47:13	4	produced with regards to number 3 on your subpoena	12:50:27
5	records that would show what of the box of documents	12:47:23	5	duces tecum. And there's an e-mail showing this was	12:50:31
6	you reviewed and which ones you didn't?	12:47:26	6	sent to Dentons in Canada. And like I said, this was	12:50:35
7	A. Not that comes to mind.	12:47:30	7	produced in the divorce case, so divorce counsel,	12:50:42
8	Q. Did anyone review the documents in the	12:47:32	8	various divorce counsel would also have it.	12:50:45
9	boxes of documents other than you that you're aware	12:47:35	9	Q. Okay. So setting aside those people	12:50:47
10	of?	12:47:37	10	you've now told me, and I'm probably going to keep	12:50:54
11	A. I believe your office has a copy of them.	12:47:39	11	asking this question until you've given me the	12:50:57
12	And we all when we went there looked in the boxes.	12:47:49	12	exhaustive list that you're aware of --	12:50:59
13	But no, not that I can -- not that I know of or I can	12:48:00	13	A. Uh-huh.	12:50:59
14	remember other than that.	12:48:04	14	Q. -- are you aware of anyone else reviewing	12:51:00
15	Q. Okay. So other than whatever portion you	12:48:07	15	any of the documents in the boxes of documents?	12:51:02
16	reviewed and then whatever portion counsel in this	12:48:13	16	A. Other than the answers I've given you, I	12:51:05
17	room may have reviewed after getting them from Salt	12:48:18	17	don't remember.	12:51:07
18	Lake Legal --	12:48:22	18	Q. Okay. Are you aware of whether Ephraim	12:51:07
19	A. Well, not everybody's in the room.	12:48:22	19	Olson reviewed the documents in the boxes of	12:51:15
20	Q. Okay. Other than Mark Hindley and anyone	12:48:26	20	documents?	12:51:17
21	associated with Stoel Rives and now Foley & Lardner,	12:48:32	21	A. I don't know.	12:51:17
22	anyone at Ms. Vaughn's law firm or yourself, are you	12:48:38	22	MS. VAUGHN: Foundation.	12:51:18
23	aware of anyone else reviewing the docs -- the	12:48:41	23	THE WITNESS: I don't know if he was -- I	12:51:19
24	documents in the boxes of documents?	12:48:44	24	don't think he was at that meeting, but no, I don't	12:51:20
25	A. From the time I had them forward?	12:48:46	25	know.	12:51:22

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1	Q. At any point ever?	12:48:47	1	Q. (BY MR. MORTENSEN) So after you received	12:51:22
2	A. Well, I'm not aware of anything before I	12:48:48	2	the boxes of documents from Ms. Carolyn Olson and	12:51:35
3	had them. So I would say -- remember I mentioned	12:48:51	3	before you gave them to Salt Lake Legal, did you do	12:51:40
4	Chase earlier, but I can't remember his last name.	12:48:59	4	anything with the documents?	12:51:43
5	He was present at that meeting. And then I don't --	12:49:02	5	A. I've already told you I reviewed some of	12:51:44
6	we know Salt Lake Legal had to have because they did	12:49:05	6	them.	12:51:49
7	an inventory.	12:49:08	7	Q. Other than the ones that you reviewed --	12:51:50
8	Q. Okay. Other than those individuals? So	12:49:09	8	well, did you use any of the documents that you	12:51:58
9	we've now excluded Ms. Vaughn's firm, the individuals	12:49:13	9	reviewed in connection with any of the legal services	12:52:01
10	at Stoel Rives and at Foley, we've excluded Chase,	12:49:16	10	you provided?	12:52:04
11	whatever his last name is, and Salt Lake Legal and	12:49:20	11	A. Whatever I've produced in discovery only,	12:52:05
12	yourself.	12:49:24	12	that I can think of. I know this was one of them. I	12:52:12
13	A. Uh-huh.	12:49:25	13	just don't -- I haven't looked back at the discovery	12:52:18
14	Q. Other than that, are you aware of anyone	12:49:25	14	in a while.	12:52:19
15	else reviewing any of the documents that were in the	12:49:28	15	Q. How long did you spend reviewing documents	12:52:20
16	boxes of documents?	12:49:30	16	in the boxes of documents?	12:52:22
17	A. Sorry, I don't remember who else, if	12:49:31	17	A. Oh, I don't know.	12:52:23
18	anybody, was at that meeting. So I would just say I	12:49:35	18	Q. Did you -- other than providing the	12:52:24
19	don't know. And then obviously this doc -- I think	12:49:39	19	documents to Salt Lake Legal, did you provide any of	12:52:33
20	this is the document -- this was produced with	12:49:44	20	the documents in the boxes of documents to anyone	12:52:38
21	regards to number 3 request on the subpoena; is that	12:49:46	21	else?	12:52:41
22	right?	12:49:49	22	A. I already told you I -- this document was	12:52:41
23	Q. I don't remember which specific request	12:49:50	23	e-mailed to Dentons.	12:52:43
24	you were produced it in response to, but -- but...	12:49:53	24	Q. Okay. So Exhibit 8 you sent to Dentons?	12:52:45
25	A. Okay. Let me -- let me just review it to	12:49:58	25	A. Yeah, this was in that subpoena duces	12:52:51

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31 (Pages 118 - 121)

1 tecum three response, there was an e-mail. 12:52:55	1 mental impressions. I'm going to instruct her not to 12:55:24
2 MR. MORTENSEN: Let's go off the record. 12:53:02	2 answer. 12:55:26
3 VIDEOGRAPHER: Going off the record at 12:53:02	3 Q. (BY MR. MORTENSEN) When did you send it 12:55:26
4 12:52.) 12:53:08	4 to Dentons? 12:55:28
5 (Break taken from 12:52 to 12:52.) 12:53:15	5 A. I'd have to see the e-mail. I don't know. 12:55:29
6 VIDEOGRAPHER: Back on the record, 12:52. 12:53:17	6 Q. Do you have a memory of -- even of the 12:55:31
7 Q. (BY MR. MORTENSEN) Okay. Other than that 12:53:22	7 timing at all? 12:55:35
8 e-mail that you sent when you sent this document to 12:53:23	8 A. I don't. 12:55:35
9 Dentons, anyone else that you've sent any of the 12:53:27	9 Q. Did you discuss this document with anyone 12:55:36
10 documents from the box of documents to? 12:53:29	10 other than Carolyn Olson? 12:55:48
11 A. I don't recall. 12:53:32	11 A. With Dentons. 12:55:55
12 Q. Why were you sending the document to 12:53:39	12 Q. Okay. So Exhibit 8, other than with 12:55:59
13 Dentons, Exhibit 8? 12:53:42	13 Dentons or with Carolyn Olson, did you discuss it 12:56:03
14 MS. PORTER: I think that intrudes into 12:53:43	14 with anyone else? 12:56:06
15 mental impressions. I'm going to instruct her not to 12:53:45	15 A. No. Not that I recall. 12:56:06
16 answer. 12:53:48	16 Q. When you received this document, were you 12:56:08
17 Q. (BY MR. MORTENSEN) You mentioned that 12:53:56	17 aware that the findings in the document had been 12:56:17
18 there were disks in the boxes of documents. Did you 12:54:00	18 reversed? 12:56:20
19 review any of the documents on the disks? 12:54:03	19 A. I'm not aware of that. 12:56:21
20 A. I mentioned -- I didn't mention that. 12:54:05	20 Q. You're not aware of that even as of today? 12:56:25
21 Q. Are you aware were there any disks in the 12:54:10	21 A. Yes. 12:56:32
22 boxes of documents? 12:54:12	22 Q. Did you have any idea where the document 12:56:32
23 A. I know I can recall one. I don't know if 12:54:13	23 came from other than with respect to the box of 12:56:39
24 there were multiple. 12:54:15	24 documents? 12:56:43
25 Q. And did you review any of the documents on 12:54:16	25 A. I can't answer that without going into 12:56:44

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1 the one you remember? 12:54:18	1 what my client shared. 12:56:50
2 A. I don't recall reviewing them. I recall 12:54:19	2 Q. So the only -- your only understanding of 12:56:52
3 reviewing the file names. 12:54:22	3 where this document came from is based on what your 12:56:56
4 Q. I see. So you opened the disk, looked at 12:54:27	4 client told you? 12:56:59
5 the file names, but don't recall actually looking at 12:54:31	5 A. Yes. 12:57:00
6 the documents; is that what you're saying? 12:54:34	6 Q. Did you have an understanding this was a 12:57:06
7 A. Yeah, I don't recall. 12:54:36	7 confidential document? 12:57:07
8 Q. Okay. Let's turn back to Exhibit 8. When 12:54:37	8 MS. VAUGHN: Assumes facts not in 12:57:14
9 you got -- when you reviewed this document -- well, 12:54:47	9 evidence. 12:57:15
10 let me change the question. You did review this 12:54:56	10 MS. PORTER: I'm going to again object to 12:57:18
11 document, I take it, Exhibit 8? 12:54:58	11 any understanding to the extent that it derives from 12:57:21
12 A. Yeah. 12:55:01	12 communication with your client. But apart from that, 12:57:25
13 Q. And you provided a copy of this to 12:55:02	13 please answer. 12:57:31
14 Dentons? 12:55:05	14 THE WITNESS: Could we take a short break? 12:57:32
15 A. Yes. 12:55:06	15 I have a question on the objection. 12:57:35
16 Q. For use in connection with the Mareva 12:55:07	16 MS. PORTER: Okay. Since it's for the 12:57:38
17 injunction? 12:55:11	17 purpose of assessing privilege, I think we are 12:57:40
18 A. I didn't say that. 12:55:12	18 entitled to do that. 12:57:42
19 Q. Was that true or not? 12:55:12	19 MR. MORTENSEN: We'll take a break. 12:57:43
20 MS. PORTER: Let me have the question. 12:55:14	20 VIDEOGRAPHER: Off the record, 12:57. 12:57:44
21 You're asking her why she sent it? 12:55:15	21 (Break taken from 12:57 to 1:01 p.m.) 12:57:47
22 Q. (BY MR. MORTENSEN) Did you send it to 12:55:16	22 VIDEOGRAPHER: Back on the record at 1:01. 13:01:40
23 Dentons for use in connection with the Mareva 12:55:18	23 MS. PORTER: Could we have the last 13:01:43
24 injunction? 12:55:22	24 question back, please. 13:01:44
25 MS. PORTER: I think that intrudes into 12:55:22	25 THE REPORTER: "Did you have an 13:01:45

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1 understanding this was a confidential document?" 12:57:06	1 this is confidential is based on a communication with 13:04:07
2 MR. MORTENSEN: It should be that this was 13:01:57	2 her client and with communication with Dentons. I'm 13:04:10
3 a confidential document. But anyway. 13:01:59	3 entitled to know when those communications occurred. 13:04:13
4 Q. (BY MR. MORTENSEN) Let's go ahead. I'll 13:01:59	4 I'm not entitled to know the substance, which is why 13:04:15
5 ask the question again. Did you have an 13:02:02	5 I didn't ask what the substance was. But I'm 13:04:17
6 understanding that Exhibit 8 was a confidential 13:02:03	6 certainly entitled to know when they occurred. 13:04:21
7 document? 13:02:06	7 That's not privileged. 13:04:23
8 MS. VAUGHN: Assumes facts not in 13:02:07	8 MS. PORTER: Well, the thing is we have to 13:04:24
9 evidence. 13:02:09	9 make certain threshold statements in order to assert 13:04:25
10 MS. PORTER: I am going to instruct her 13:02:10	10 a privilege. And then you can't say, well, the very 13:04:27
11 not to answer because the -- it implicates 13:02:11	11 fact that you -- that you made your threshold showing 13:04:30
12 attorney/client privilege. Even just the yes or no 13:02:14	12 relevant to a privilege issue now means I get to 13:04:35
13 part for the reasons I discussed earlier. 13:02:19	13 explore that. I don't -- I just don't see it. 13:04:38
14 Q. (BY MR. MORTENSEN) So your only 13:02:21	14 MR. MORTENSEN: Yeah, I'm not asking about 13:04:41
15 understanding as to whether this document is 13:02:22	15 the privileged communication. I'm asking about the 13:04:42
16 confidential or not is based on something that was 13:02:25	16 timing of the communication. There's nothing 13:04:45
17 told to you by Carolyn Olson; is that correct? 13:02:26	17 privileged about when you communicate with your 13:04:48
18 MS. PORTER: I think he's entitled to 13:02:32	18 client. There is privilege about what you 13:04:50
19 know. 13:02:34	19 communicate with your client. 13:04:52
20 THE WITNESS: Okay. My answer is no. 13:02:34	20 MS. PORTER: And I actually don't agree 13:04:53
21 Q. (BY MR. MORTENSEN) Okay. So there is 13:02:35	21 with that first legal statement because I've had it 13:04:54
22 another basis for your understanding as to whether 13:02:37	22 come up in a case before and -- 13:04:56
23 this is confidential. What is the other basis? 13:02:39	23 MR. MORTENSEN: All right. Well, then 13:04:59
24 A. Can I answer that? 13:02:42	24 let's just jump past that. I don't see any reason to 13:04:59
25 MS. PORTER: Yeah, I think you can. I 13:02:49	25 argue this anymore. I've asked when. Are you going 13:05:02
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1 think he's entitled to that, but I don't think you go 13:02:53	1 to instruct her not to answer? 13:05:04
2 any further. 13:02:55	2 MS. PORTER: Under these circumstances, 13:05:06
3 THE WITNESS: Okay. Through conversations 13:02:56	3 yes. 13:05:09
4 with Canadian lawyer, "s," plural. 13:02:57	4 Q. (BY MR. MORTENSEN) Okay. When did you 13:05:09
5 Q. (BY MR. MORTENSEN) Okay. Let me see if I 13:03:03	5 communicate with Dentons about whether the document 13:05:09
6 can parse this out. Your understanding as to the 13:03:05	6 was confidential? 13:05:14
7 confidentiality of this document is based on two 13:03:09	7 MS. PORTER: Same instruction. 13:05:16
8 things: Communications with Carol Carolyn Olson and 13:03:12	8 Q. (BY MR. MORTENSEN) Did you provide this 13:05:21
9 Canadian lawyers at Dentons? 13:03:16	9 document to anyone other than through e-mail to the 13:05:22
10 A. Yes. 13:03:19	10 Dentons law firm? 13:05:27
11 Q. Okay. When did you have the 13:03:21	11 A. I provided the box of documents to Salt 13:05:29
12 communications with Carolyn Olson about whether or 13:03:26	12 Lake Legal, and I provided this in discovery in the 13:05:34
13 not this document was confidential? 13:03:29	13 divorce case. 13:05:38
14 A. I don't remember that, but I just want to 13:03:31	14 Q. Did you mail a hard copy of this document 13:05:39
15 be careful as to -- 13:03:40	15 to anyone? 13:05:43
16 MS. PORTER: The question does incorporate 13:03:43	16 A. No. 13:05:44
17 the subject of the discussion. 13:03:44	17 Q. And I think you told me this already, but 13:05:44
18 MR. MORTENSEN: That's why I said whether 13:03:46	18 you're not aware of whether or not this decision was 13:05:56
19 or not as opposed to -- and I didn't make an opinion 13:03:48	19 reversed by CRA? 13:05:58
20 as to the actual answer. 13:03:50	20 A. No. 13:06:00
21 MS. PORTER: Yes. I did appreciate the 13:03:53	21 Q. As we've discussed I think a little bit 13:06:01
22 wording on that. But it's still a very narrow 13:03:56	22 today, you are aware that Carolyn Olson is being 13:06:23
23 subject. 13:04:00	23 represented by lawyers at Dentons in Canada and 13:06:26
24 MR. MORTENSEN: Well, Ms. Porter, she's 13:04:01	24 potentially other jurisdictions; is that true? 13:06:31
25 already told that her understanding of whether or not 13:04:04	25 A. Yes. 13:06:32
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